IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Terry L. Norman, # 198543,) C/A NO: 8:05-1327-CMC-BHH
Petitioner,)
v.) OPINION AND ORDER
Henry McMaster, Attorney General of South Carolina,)))
Respondent.)) _)

Petitioner, an inmate at the Kirkland Correctional Institution of the South Carolina Department of Corrections, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on May 18, 2005. Respondent filed a motion for summary judgment July 7, 2005. In an order filed July 12, 2005, the court advised Petitioner of the procedures for responding to the motion for summary judgment and the consequences if no response was filed. Petitioner failed to file any response. Because Petitioner is proceeding *pro se*, the court issued a second order on August 30, 2005, giving Petitioner an additional twenty days to respond to the motion for summary judgment. Petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. No response was filed by Petitioner.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Bruce H. Hendricks. The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or

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recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court

reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident

Ins. Co., 416 F.3d 310 (4th Cir. 2005) stating that "in the absence of a timely filed objection, a

district court need not conduct de novo review, but instead must 'only satisfy itself that there is no

clear error on the face of the record in order to accept the recommendation." (quoting Fed. R. Civ.

P. 72 advisory committee's note).

Based on her review of the record, the Magistrate Judge has recommended that the action be

dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure

because Petitioner failed to respond to Respondent's motion for summary judgment. The Magistrate

Judge advised Petitioner of his right to file objections to the Report and Recommendation and the

consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has

expired.

After reviewing the record of this matter, the applicable law, and the Report and

Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report

and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

This action is **DISMISSED** for lack of prosecution pursuant to Rule 41(b) of the Federal

Rules of Civil Procedure.

IT IS SO ORDERED.

s/Cameron McGowan Currie

CAMERON MCGOWAN CURRIE

UNITED STATES DISTRICT JUDGE

Columbia, South Carolina November 1, 2005

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